

**STATE OF VERMONT
DEPARTMENT OF LABOR**

VERMONT MINIMUM WAGE RULES

Section I. AUTHORITY

Issued by Authority of and under the provisions of Subchapter 3, Chapter 5, Title 21; Vermont Statutes Annotated as amended by No. 244 of the Acts of 1978. These rules supersede and replace Wage Orders Number 1 and 2.

Section II. APPLICATION

Minimum wage rules are applicable to all employers of two or more persons unless the employee is specifically exempt under 21 V.S.A. §383(2).

Section III. DEFINITIONS

1. **Commissioner.** The Commissioner of Labor.
2. **Employer.** One who employs two or more persons.
3. **Employee.** Any individual employed or permitted to work by an employer.
4. **Non-service Employees.** Employees in hotels, motels, tourist places or restaurants who do not regularly receive more than \$30.00 per month in tips.
5. **Service or Tipped Employees.** Employees in hotels, motels, tourist places or restaurants who customarily and regularly receive more than \$30.00 per month in tips for direct and personal customer service. See 21 V.S.A. § 384(a). Examples of such employees include waiters, waitresses, bartenders, housekeepers, counter-servers, and bellhops.
6. **Occupation.** Any industry, trade or business or branch thereof, or class of work therein, in which the worker is gainfully employed, specifically including the cosmetology business.
7. **Hotel or Motel.** Any establishment, including an Inn, Cabin, Lodge, Bed and Breakfast or Resort, which as a whole or part of its business activities offers lodging accommodations for hire to the public or to members or guests of its members, and services in connection thereto.
8. **Restaurant.** Any establishment conducting any activity directly connected with the preparation and serving of food to the public for pay, and where lodging is not furnished for pay.
9. **Tourist Industry.** An amusement or recreational establishment that,
 - a) does not operate for more than seven months in any calendar year, or
 - b) during the preceding calendar year, had average receipts for any six months of that year that were not more than one third of its average receipts for the other six months of the year.

10. Basic Wage Rate. The minimum hourly portion of the minimum wage which an employer subject to these rules must pay service or tipped employees, provided however that in any week in which a service or tipped employee does not receive and retain sufficient tips to meet or exceed the minimum wage, the employer must contribute the additional amount necessary to raise the employee's hourly earnings to at least the minimum wage.

11. Tip. A sum of money gratuitously and voluntarily left by a customer for service, or indicated on the bill or the charge statement, to be paid to service or tipped employees for directly and personally serving that customer in a hotel, motel, tourist place or restaurant. Note: An employer mandated service charge is not a tip.

12. Tip Credit. The amount of a service or tipped employee's actual hourly average tip earnings received and retained by the service or tipped employee during the work week (not to exceed seven days) which an employer may credit toward the obligation to pay the service or tipped employee the prevailing minimum wage, not to exceed the smaller of either the amount set forth in the schedule below or the average hourly amount of tips actually earned and retained by such employee, as computed on a work week basis.

Section IV. MINIMUM WAGE

All Employees (except service/tipped)	Minimum Wage
Effective 01/1/04	\$6.75/hour
Effective 01/1/05	\$7.00/hour
Effective 01/1/06	\$7.25/hour
Effective 01/1/07 and annually thereafter	Minimum wage from previous year plus 5% or percentage increase of CPI-U, U.S. city average, not seasonally adjusted, whichever is smaller (See below*)

Service and Tipped Employees	Basic Wage Rate	Tip Credit
Effective 01/1/04	\$3.58/hour	\$3.17/hour
Effective 01/1/05	\$3.65/hour	\$3.35/hour
Effective 01/1/06	\$3.65/hour	\$3.60/hour
Effective 01/1/07 and annually thereafter	\$3.65/hour	Tip credit rate from previous year plus 5% or percentage increase of CPI-U, U.S. city average, not seasonally adjusted, whichever is smaller (See below*)

*Beginning January 1, 2007, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller. The minimum wage shall be rounded off to the nearest \$0.01. For purposes of service and tipped employees, the Basic Wage Rate shall remain at \$3.65 per hour and the Tip Credit shall increase each year in the same amount as the minimum wage. (Act 82 of the 2005 Vermont General Assembly)

NOTE: If the minimum wage rate established by the U.S. Government is greater than the rate established for Vermont for any year, the Vermont minimum wage rate shall be the rate established by the U.S. Government.

Section V. OVERTIME

An employer must pay an employee at least 1 1/2 times the employee's regular wage rate for all hours worked over 40 in a workweek. Note: Vermont exempts from this overtime requirement employees of: retail or service establishments; hotels, motels or restaurants; the state and political subdivisions of the state; certain amusement or recreational establishments; and, certain employees engaged in transportation if also exempted from the F.L.S.A. See 21 V.S.A. § 384(b). Employees exempted under Vermont law may still be entitled to overtime under federal law.

Section VI. WAGE STATEMENTS

Each employer shall deliver to each covered employee with such employee's pay each week, a detailed written statement, which at a minimum shall set forth the gross pay and hours worked, hourly rate, and all deductions fully itemized (including number of meals for which deduction is made and gross meals deductions, unless weekly full room and board is charged).

A service employee must submit a signed report to the employer on a weekly basis indicating the total amount of tips received and retained by the employee during the previous seven-day period. The employer is required to preserve all such reports submitted by the employee for a period of three years.

An employer may provide an electronic itemized wage statement in lieu of a paper statement, provided:

- the employer obtains written authorization pursuant to 21 V.S.A §342(d);

- the statement is made available at the time wages are paid;

- the statement can be accessed and printed by the employee at no cost to the employee, and;

- measures are taken by the employer to protect confidential information from access by anyone other than the employee.

Section VII. WEEKLY PAYMENT OF WAGES

Any person having employees in his service doing and transacting business within the state shall pay each week, in lawful money or checks, each of his employees, the wages earned by such employee to a day not more than six days prior to the date of such payment. See 21 V.S.A. §342(a)

After giving written notice to his employees, any person having employees in his service doing and transacting business within the state may, notwithstanding the previous paragraph, pay bi-weekly or semi-monthly in lawful money or checks, each of his employees, the wages earned by the employee to a day not more than six days prior to the date of the payment. If a collective bargaining agreement so provides, the payment may be made to a day not more than 13 days prior to the date of payment. See 21 V.S.A. §342(b).

An employee who voluntarily leaves employment shall be paid on the last regular pay day, or if there is no regular pay day, on the following Friday. See 21 V.S.A. §342(c)(1).

An employee who is discharged from employment shall be paid within 72 hours of the discharge. See 21 V.S.A. §342(c)(2).

If an employee is absent from his/her regular place of employment on the employer's regular scheduled date of wages or salary payment, such employee shall be entitled to such payment upon demand. See 21 V.S.A. §342(c)(3).

Section VIII. ELECTRONIC OR DIRECT DEPOSIT

With the written authorization of an employee, an employer may pay wages due the employee by deposit through electronic funds transfer or other direct deposit systems to a checking, savings or other deposit account maintained by the employee in any financial institution within or without the state. See 21. V.S.A. §342(d).

Section IX. COMMISSION OR BONUS

Where an employee receives a commission on sales or a bonus in lieu of wages, the aggregate of said commission and/or bonus shall in no case be less than the minimum wage.

Section X. DEDUCTIONS ALLOWED

An employer may apply wage deductions as follows:

1. Deductions for goods or services.

An employer may deduct for goods or services provided by the employer to the employee if the following conditions are met:

- a. The deduction does not reduce an employee's wages below the hourly minimum wage.
- b. The employee provides written authorization or the employer sufficiently documents the employee's intention to repay.
- c. The deduction is not prohibited by state or federal law or these rules.
- d. The deduction shall not exceed the amount the employee agreed to.

2. Deductions authorized by law.

An employer may make deductions specifically authorized by state or federal law including deductions for state and federal taxes and child support.

The employer may, with written authorization from the employee, make deductions for contributions for health insurance or retirement plans.

3. Deductions for employer provided meals and lodging.

An employer shall be entitled to deduct from the minimum wage an allowance for meals and lodging actually furnished and accepted as follows:

Breakfast	\$2.41
Lunch	\$2.70
Dinner	\$3.00
Full Board	\$48.72 weekly
Nightly Lodging	\$3.30
Full Room	\$19.85 weekly
Full Room & Board	\$68.57 weekly

Section XI. DEDUCTIONS NOT ALLOWED

1. An employer may not deduct from an employee's wages any amount due to claimed damages, cash register shortages or to pay for a medical exam as a condition of employment.

2. An employer may not deduct from an employee's wage any amount for providing or maintaining a required uniform, nor shall any other compensation pass to any employer from an employee for a uniform or the maintenance thereof.

Section XII. POSTING:

All employers of two or more employees shall prominently post the Minimum Wage Poster so that employees may refer to it. The poster is available from the Department's website at <http://labor.vermont.gov/sections/uiwages/wages/posters>

Section XIII. COMPLAINTS:

Any person who has any complaint regarding an employer's compliance with this order may call the Office of the Commissioner of Labor, Wage and Hour Program at 802-828-2157.

Equal Opportunity is the Law. The State of Vermont is an Equal Opportunity/Affirmative Action Employer. Applications from women, individuals with disabilities, and people from diverse cultural backgrounds are encouraged. Auxiliary aids and services are available upon request to individuals with disabilities. 711(TTY/Relay Service) or 802-828-4203 TDD (Vermont Department of Labor).